

athletes with braids or ponytails were not punished. Therefore, Plaintiffs' equal protection claim will be dismissed without prejudice and Plaintiffs will be given an opportunity to file an amended complaint as to their equal protection claim by not later December 23, 1999.¹⁷

In an amended complaint Plaintiffs must articulate clearly and specifically how they state an equal protection claim. Plaintiffs must plead, *inter alia*, how and when the claim arose, with whom Plaintiff Charles Corn, Jr. was similarly situated and how he was treated differently. Defendants have claimed qualified immunity, so in addition to alleging that Defendants violated a constitutional right, Plaintiffs must show that Defendants' treatment of Plaintiff Charles Corn, Jr. violated clearly established law. See, e.g., Johnson v. Martin, __ F.3d __, No. 96-CV-536-B, 1999 WL 988554, at *7 (10th Cir. Nov. 1, 1999); Breidenbach, 126 F.3d at 1293; Norton v. Village of Corrales, 103 F.3d 928, 933 (10th Cir. 1996). Plaintiffs should also consider whether any heightened pleading standard is triggered in this case by Defendants' claim of qualified immunity. See Leatherman, 507 U.S. at 166-68. Finally, if Plaintiffs decide to file an amended complaint asserting an equal protection claim, they must, of course, conform to Fed. R. Civ. P. 11.

¹⁷ In light of this disposition, I will not reach Plaintiffs' request to strike portions of Defendants' briefs which refer to Trujillo v. Sanchez.

IT IS THEREFORE ORDERED that Defendants' Motion to Dismiss Amended Complaint (Doc. No. 12) is GRANTED with respect to Counts One and Two, which are dismissed with prejudice, and also with respect to Count Three, which is dismissed without prejudice, with leave to amend by not later than December 23, 1999.


James A. Parker
UNITED STATES DISTRICT JUDGE